

COMMISSIONER OF SECURITIES & INSURANCE

TROY DOWNING
COMMISSIONER



OFFICE OF THE
MONTANA STATE AUDITOR

January 1, 2021

NOTICE

TO: All Captive Managers

FROM: Steve Matthews
Captive Coordinator
Office of the Commissioner of Securities & Insurance (CSI)

SUBJECT: Annual Reporting Instructions
Montana-domiciled Captive Insurers

1. Unaudited Financial Statements (Annual Statement or Annual Report):

Pursuant to Mont. Code Ann. § 33-28-107, on or before April 1 of each year, a captive insurer shall submit to the Commissioner, on a form prescribed by the Commissioner, a report of its financial condition. Each captive insurer shall report using generally accepted accounting principles (GAAP). Modifications or adaptations to standard GAAP accounting may be used only with the prior written approval of the Commissioner.

Non-risk retention groups ("non-RRGs") may use the "Montana Short Form" for the annual filing. The prescribed and approved 2020 "Montana Captive Insurance Company Annual Report" ("Montana Short Form") can be found on the CSI website at <http://csimt.gov/insurance/captives>. In addition, the CSI website includes a Montana Short Form for fiscal year filers.

Be aware that the Cover Page of the Montana Short Form has been amended to include the captive's FEIN number. We are capturing FEINs for the purpose of **OPTins**, which is further explained in the attached memorandum.

The Commissioner may impose a fine for the late filing of an annual report. The fine may not exceed \$100 per day, and the maximum fine is \$1,000.

2. Audited Financial Statements:

Pursuant to Administrative Rules of Montana (Mont. Admin. R.) 6.6.6811, all non-RRG captive insurers shall have an annual audit by an independent certified public accountant authorized by the Commissioner, and shall file such audited financial report with the Commissioner on or before June 30 for the year ending December 31 immediately preceding.

The annual CPA audit report shall be considered part of the captive insurer's annual report of financial condition except with respect to the date by which it must be filed.

The annual CPA audit shall consist of the following:

- a) Financial statements furnished pursuant to this section shall be examined by an independent certified public accountant in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants.
- b) The opinion of the independent certified public accountant shall cover all the years presented and shall be dated and addressed to the captive insurance company on the accountant's stationery with accountant's address and shall bear original manual signature.

The annual CPA audit report shall include an evaluation of the internal controls of the captive insurer relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including but not limited to such controls as the system of authorization and approval and the separation of duties.

The accountant shall furnish the company, for inclusion in the filing of the audited financial report, a letter stating:

- a) That it is independent with respect to the captive insurance company and conforms to the standards of the profession, as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and pronouncements of the Financial Accounting Standards Board.
- b) The general background and experience of the staff engaged in the audit including the experience in auditing captives or other insurance companies.
- c) That the accountant understands that the audited annual report and the accountant's opinion thereon will be filed with the CSI.
- d) That the accountant consents to the requirements of Mont. Admin. R. 6.6.6819.
- e) That the accountant is properly licensed by the appropriate state licensing authority and is a member in good standing with the American Institute of Certified Public Accountants.

The annual CPA audit shall include the following financial statements:

- a) Balance sheet;
- b) Statement of operations;
- c) Statement of changes in financial position;
- d) Statement of changes in paid up, gross paid in and contributed surplus and unassigned funds (surplus); and
- e) Notes to financial statements, which shall include those that are required by GAAP, including:
 1. A reconciliation of differences, if any, between the audited financial report and the statement or form filed with the Commissioner (i.e., unaudited statement);
 2. A summary of ownership and relationship of the company and all affiliated corporations or companies insured by the captive.

3. Actuarial Opinion:

Pursuant to Mont. Admin. R. 6.6.6816, the annual CPA audit shall include an opinion as to the adequacy of the captive insurer's loss reserves and loss expense reserves. The individual who certifies as to the adequacy of the reserves shall be approved by the Commissioner and shall be a member of the Casualty Actuarial Society, a member in good standing of the Academy of Actuaries, or an individual who has demonstrated competence in loss reserve evaluation to the Commissioner.

The required opinion may follow the NAIC Annual Statement Instructions but is not required to do so. For non-RRG opinions that do not follow the NAIC Annual Statement Instructions, the actuary must still state his or her "opinion" regarding the sufficiency of the company's loss reserves and loss expense reserves, and the actuary must sign such opinion.

4. Special Instructions for Cell Reporting:

Each Protected Cell Captive Insurance Company (PCC core) and each protected cell (cell) affiliated with the PCC core shall file separate unaudited financial statements on the Montana Short Form on or before April 1st of each year. For example, if there is a PCC core and two cells, then the PCC core files an unaudited financial statement to report its own business, and each cell files an unaudited financial statement to report the cell's business.

Each PCC core shall file "combined" audited financial statements with the CSI on or before June 30 of each year. The auditor shall express an opinion on the combined assets, liabilities, capital and surplus of the PCC core and each cell. The detailed assets, liabilities, and capital and surplus balances of the PCC core and each cell shall be disclosed in a supplemental schedule to the financial statements.

Each individual cell shall file an actuarial opinion, certifying the adequacy of the loss reserves and LAE reserves on or before June 30 of each year. An actuarial opinion would also be required for the PCC core, if the PCC core is at risk, i.e., has loss reserves.

5. Special Instructions for Series LLC Reporting:

A Series LLC (Series core) and its series business unit(s) (SBU) may file “combined” unaudited financial statements on the Montana Short Form on or before April 1st of each year.

Each Series core shall file “combined” audited financial statements with the CSI on or before June 30 of each year. The auditor shall express an opinion on the combined assets, liabilities, capital and surplus of the Series core and each SBU. The detailed assets, liabilities, and capital and surplus balances of the Series core and each SBU shall be disclosed in a supplemental schedule to the financial statements.

Each individual SBU shall file an actuarial opinion, certifying the adequacy of the loss reserves and LAE reserves on or before June 30 of each year. An actuarial opinion would also be required for the Series core, if the Series core is at risk, i.e., has loss reserves.

6. Filing Instructions:

One hard copy or electronic copy of the annual statement should be filed with the CSI. Additionally, one hard copy or electronic copy of all other financial filings is required. See the attached “**Montana Filing Checklist for Captive Insurers**” for further filing requirements and instructions.

It is suggested that electronic filings be made through the Montana File Transfer Service (ePass). An ePass account can be established at:

<https://app.mt.gov/epass-idp/Authn/EpassCreate/>

When using ePass, you will be asked to enter a receiving email address. Please use one of the following recipients: Patrick.Hunter@mt.gov or TRedpath@mt.gov.

7. Fiscal Year Filers:

Non-RRGs with a fiscal year-end other than December 31 must request and receive permission from the CSI to file on a basis other than December 31. This request need only be made one time (companies generally request this, and are approved, at time of licensure), but any subsequent changes must also be approved by the CSI. Filing deadlines for fiscal year filers are as follows: unaudited statements are due 90 days after fiscal year-end; audited statements and actuarial opinions are due 180 days after fiscal year-end. **Premium tax returns for fiscal year filers are due March 1 as is the case for all captive insurers. See the next section for additional instructions for fiscal year filers.**

8. Premium Tax Returns:

All Montana-domiciled captive insurers are required to file a Montana Premium Tax Return no later than March 1 of each year. Mont. Code Ann. § 33-28-201 allows a quarterly proration of the minimum premium tax for those captive insurers who were newly licensed during the tax year being filed.

The attached memorandum regarding **OPTins** discusses the filing of the Montana Premium Tax Return by the March 1, 2021, due date. **Please read it carefully.**

Fiscal year filers shall file a Montana Premium Tax Return no later than March 1 of each year for the **most recently completed calendar year**. This means that for premium tax purposes, fiscal year filers shall convert fiscal year premium data to calendar year data. To support the premium tax return, a fiscal year filer shall attach to the premium tax return a report of monthly written premium and/or reinsurance assumed for the **prior calendar year**.

PCC core companies shall submit a single premium tax return that combines premium/assumed reinsurance numbers for the PCC core and each cell.

Series core companies shall submit a single premium tax return that combines premium/assumed reinsurance numbers for the Series core and each SBU. The maximum premium tax of \$100,000 shall be applied to each SBU of a Series LLC captive, rather than application of the maximum to the captive in aggregate.

9. Certificate of Authority Renewal:

Pursuant to Mont. Code Ann. § 33-28-102(4)(b), all licensed captive insurers (including each protected cell and each SBU) shall pay a Certificate of Authority (license) renewal fee of \$300. The renewal fee is incorporated into the Montana Premium Tax Return and payment should be remitted therewith. The Commissioner may suspend or revoke a captive's Certificate of Authority if the renewal fee is not paid by March 1.

10. Dormant Captives:

Pursuant to Mont. Code Ann. § 33-28-401 a dormant captive insurer shall:

- On or before March 1, pay a \$1,000 annual dormancy tax. Please use the Dormancy Tax Return to report and remit the dormancy tax.
- No later than April 1, submit to the Commissioner a report of the dormant captive's financial condition as of the preceding year end, verified by oath of two of its executive officers, in a form as may be prescribed by the Commissioner. Please use the Montana Short Form in #1 above.

11. CSI Contacts for Questions Regarding Filings:

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Montana Filing Checklist for Captive Insurers

	Due Date	Captive Insurer	Cell Captive (PCC Core)/ Series LLC (Series Core)	Individual Cell/ Individual Member of Series LLC
UNAUDITED FINANCIAL STATEMENTS				
Annual Financial Statement:	4/1	√	√	√
AUDITED FINANCIAL STATEMENTS				
Audited Financial Statements:	6/30	√	√*	*
Report of Evaluation of Internal Controls:	6/30	√	√*	*
Accountants Letter:	6/30	√	√*	*
ACTUARIAL OPINION				
Statement of Actuarial Opinion:	6/30	√	√**	√**
OTHER REQUIRED FILINGS				
Premium Tax Return:	3/1	√	√***	***
Certificate of Authority Renewal Fee:	3/1	√	√	√

- √ Denotes required filing.
- * Each Protected Cell Captive (PCC core) and Series LLC (Series core) must file a "combined" audited financial statement. Refer to "Reporting Instructions" memo.
- ** Each PCC core must file individual actuarial opinions for each cell and the PCC core (if applicable). Refer to "Reporting Instructions" memo.
- ** Each Series core must file individual actuarial opinions for each SBU and the Series core (if applicable). Refer to "Reporting Instructions" memo.
- *** Each PCC core and Series core must file a combined Premium Tax Return. Refer to "Reporting Instructions" memo.

Note: For captives using a non-calendar year (fiscal year), the due dates in the above checklist do not apply, except for the premium tax return and Certificate of Authority Renewal fee. Refer to "Reporting Instructions" memo.

TO: MONTANA CAPTIVE PREMIUM TAX FILERS

RE: OPTins

FROM: THE OFFICE OF THE COMMISSIONER OF SECURITIES AND INSURANCE, MONTANA STATE AUDITOR (MONTANA CSI)

DATE: DECEMBER 21, 2020

The Montana CSI has implemented OPTins (Online Premium Tax for Insurance) for insurance companies filing and paying the Montana Captive Premium Tax. OPTins, a product of the National Association of Insurance Commissioners (NAIC), has been developed to facilitate captive insurance premium tax forms and payments. OPTins will be available for your Montana Captive Premium Tax filings and payments beginning on February 1, 2021, for filings and payments due by the March 1, 2021 deadline.

The use of OPTins for your tax filings and payments is now required by the Montana CSI. The fee is \$15.00 per filing. Checks and tax filings submitted in hard copy will no longer be accepted by the Montana CSI.

The steps to submit your tax filing are very simple and require no formal training. Easy to follow instructions are available at: <https://www.optins.org>. Once registered and set up, you will be able to log in, complete your tax form, and submit your payment online. Tax forms and payments are received at the Montana CSI immediately upon submission by the company or manager.

Using OPTins allows you to save time and ensure that both the form and payment are received together and on time. **First time users of OPTins should contact the OPTins Marketing Team at optinsmktg@naic.org or call (816) 783-8787, to set up an account.** Setup of a new account takes 7-10 business days. Once you have an account in OPTins, you can file to all state accounts using our application.

Questions or comments applicable to this email should be directed to:

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